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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

KALEB LEE BASEY,)	
)	Case No. 4:16-cv-00038-TMB
Plaintiff,)	
)	ANSWER TO COMPLAINT BY
vs.)	THE DEPARTMENT OF
)	JUSTICE, FEDERAL BUREAU
DEPARTMENT OF THE ARMY,)	OF INVESTIGATION
Criminal Investigation Division)	
Command, 5th Squadron 1st)	
Cavalry Regiment;)	
DEPARTMENT OF JUSTICE,)	
Federal Bureau of Investigation,)	
)	
Defendants.)	
)	

The Department of Justice, Federal Bureau of Investigation
(hereinafter, FBI), through undersigned counsel, answers the Plaintiff's
complaint as follows:

Complaint

1. The allegations in paragraph 1 contain legal conclusions to which no response is required. To the extent that a response is required, the FBI admits that Plaintiff has filed a complaint under the Freedom of Information Act (FOIA) related to certain FOIA requests made by the Plaintiff. All other allegations in paragraph 1 are denied.

Jurisdiction and Venue

2. The allegations in paragraph 2 contain legal conclusions to which no response is required. To the extent that a response is required, the FBI admits that this Court has jurisdiction over this lawsuit pursuant to 5 U.S.C. § 552(a)(4)(B).

3. The allegations in paragraph 3 contain legal conclusions to which no response is required. To the extent that a response is required, the FBI admits that venue is proper.

Parties

4. Upon information and belief, the FBI admits that the Plaintiff is an inmate incarcerated at the Fairbanks Correctional Center. The FBI further admits that the Plaintiff has submitted a FOIA request to the FBI. The FBI lacks knowledge or information sufficient to form a belief with

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regard to any FOIA requests Plaintiff has submitted to other agencies. With regard to all allegations about the Plaintiff's personal motivations or beliefs, the FBI lacks knowledge or information sufficient to form a response. The FBI denies all remaining allegations in paragraph 4.

5. The FBI admits that the Department of the Army and the Department of Justice are agencies of the United States. The FBI further admits that the Plaintiff has submitted a FOIA request to the FBI, and that the FBI may or may not possess information that is responsive to the Plaintiff's FOIA requests. The FBI lacks knowledge or information sufficient to form a belief with regard to any FOIA requests Plaintiff has submitted to other agencies. The FBI denies all remaining allegations in paragraph 5.

6. Admitted.

Plaintiff's FOIA Request to the CID

7. The FBI makes no response to the allegations in paragraph 7 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

8. The FBI makes no response to the allegations in paragraph 8 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

9. The FBI makes no response to the allegations in paragraph 9 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

10. The FBI makes no response to the allegations in paragraph 10 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

11. The FBI makes no response to the allegations in paragraph 11 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

12. The FBI makes no response to the allegations in paragraph 12 because they are not directed at it and because they contain legal conclusions to which no response is required. To the extent that a response is required,

the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

Plaintiff's FOIA Request to 5-1 Cav

13. The FBI makes no response to the allegations in paragraph 13 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

14. The FBI makes no response to the allegations in paragraph 14 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

15. The FBI makes no response to the allegations in paragraph 15 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

16. The FBI makes no response to the allegations in paragraph 16 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

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17. The FBI makes no response to the allegations in paragraph 17 because they are not directed at it and because they contain legal conclusions to which no response is required. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

Plaintiff's FOIA Request to the FBI

18. The FBI admits that the Plaintiff sent a FOIA request to the FBI. The FBI denies the accuracy and completeness of Plaintiff's characterization of the contents of the request or its propriety and, instead, refers to the request itself for its contents. The FBI lacks knowledge or information sufficient to form a belief as to the exact date when Plaintiff sent this request. With regard to all allegations about the Plaintiff's personal motivations or beliefs, the FBI lacks knowledge or information sufficient to form a response.

19. Admitted.

Tracking number 1358015

20. Admitted that, by letter dated September 23, 2016, the FBI denied Plaintiff's FOIA request number 1358015-000, making a *Glomar* response.

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21. Admitted.

22. Admitted that the FBI denied Plaintiff's appeal. The FBI makes no response to the remaining allegations in paragraph 22 because they contain legal conclusions to which no response is required. To the extent that a response is required, the remaining allegations are admitted.

Tracking number 1358015

23. Admitted that, by letter dated October 6, 2016, the FBI denied Plaintiff's FOIA request number 1358015-000, making a *Glomar* response.

24. Admitted.

25. Admitted that, by letter dated October 19, 2016, the FBI acknowledged receipt of Plaintiff's appeal and assigned the appeal tracking number.

26. Admitted.

27. The allegations in paragraph 15 contain legal conclusions to which no response is required. To the extent that a response is required, admitted.

Count I: Wrongful Withholding of Information in Violation of FOIA

28. The FBI incorporates its answers and responses to all preceding paragraphs.

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29. The FBI makes no response to the allegations in paragraph 29 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

Count II: Wrongful Withholding of Information in Violation of FOIA

30. The FBI incorporates its answers and responses to all preceding paragraphs.

31. The FBI makes no response to the allegations in paragraph 31 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

Count III: Wrongful Withholding of Information in Violation of FOIA

32. The FBI incorporates its answers and responses to all preceding paragraphs.

33. Denied.

Count IV: Wrongful Withholding of Information in Violation of FOIA

34. The FBI incorporates its answers and responses to all preceding paragraphs.

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35. Denied.

Count V: Violation of FOIA Time Limits

36. The FBI incorporates its answers and responses to all preceding paragraphs.

37. The FBI makes no response to the allegations in paragraph 37 because they are not directed at it. To the extent that a response is required, the FBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

38. Denied.

Prayer for Relief

39. Paragraphs A through F are claims for relief, to which no response is required. To the extent that a response is required, the FBI denies that Plaintiff is entitled to the requested relief or any relief whatsoever in this action.

AFFIRMATIVE DEFENSES

1. One or more claims in the Complaint fail to state a claim upon which relief may be granted.

2. The information that Defendant has withheld, or will withhold, in response to one or more of Plaintiff's FOIA requests may be exempt in whole or in part from public disclosure under the FOIA, 5 U.S.C. § 552(b).

3. The information that Defendant has withheld, or will withhold, in response to one or more of Plaintiff's FOIA requests may be exempt in whole or in part from public disclosure under the Privacy Act, 5 U.S.C. § 552a *et seq.*

4. One or more of Plaintiff's FOIA requests was not properly submitted, precluding judicial review.

5. Plaintiff cannot qualify for an award of fees in this action because he is *pro se*.

6. Defendant reserves the right to assert additional affirmative defenses that become available or apparent during the course of this litigation.

WHEREFORE, having answered Plaintiff's Complaint, Defendant prays for relief as follows:

1. Dismissal of Plaintiff's Complaint with prejudice.
2. Entry of judgment in favor of the Defendant.
3. That Plaintiff takes nothing by this action.

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4. That the Defendant be awarded costs and fees for defending this action.

5. All other relief the Court may deem appropriate.

DATED this 9th day of January, 2017, at Anchorage, Alaska.

KAREN L. LOEFFLER
United States Attorney

s/John Fonstad
Assistant U. S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2017,
a copy of the foregoing
was served electronically on:

Kaleb Lee Basey
Fairbanks Correctional Center
1931 Eagan Avenue
Fairbanks, AK 99701

s/John Fonstad

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